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SCHNADER HARRISON SEGAL &  
LEWIS LLP  
1600 Market Street, Suite 3600  
Philadelphia, PA 19103

|                                       |   |                 |
|---------------------------------------|---|-----------------|
| In re Application of                  | : | DECISION ON     |
| BECKER et al                          | : |                 |
| Application No.: 09/914,541           | : |                 |
| PCT No.: PCT/US00/05158               | : | PETITION UNDER  |
| Int. Filing Date: 01 March 2000       | : |                 |
| Priority Date: 01 March 1999          | : | 37 CFR 1.137(b) |
| Attorney's Docket No.: 1046-PCT-US-00 | : |                 |
| For: EUKARYOTIC PEPTIDE UPTAKE        | : |                 |
| SYSTEM FOR TRANSPORTATION OF          | : |                 |
| ENKEPHALINS                           | : |                 |

This decision is in response to applicants' "Petition to Revive under 37 CFR 1.137(b)," filed on 31 October 2002.

**BACKGROUND**

In a Notification from this Office on 30 September 2002 indicated that although petitioner satisfied the requirements under MPEP 605.04(c), the declaration of the inventors was not accepted because it was not a proper declaration. The notification stated that only one declaration had been submitted in its entirety (pages 1-3), the rest only included page 3 of their respective declaration (i.e. pages 1 and 2 were missing to make it complete).

The decision gave petitioner one (1) MONTH from the mail date of the decision or the time period remaining from the 27 March 2002 decision. The notification further stated that the time period for response set in the Notification of Missing Parts (PCT/DO/EO/905) may be extended up to a maximum of five (5) months under 37 CFR 1.136(a).

This international application became abandoned with respect to the United States at midnight on 30 October 2002 for failure to timely respond to the Notification mailed on 30 September 2002.

On 31 October 2002, petitioner submitted the instant petition under 37 CFR 1.137(b).

### DISCUSSION


A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting a proper declaration, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **31 October 2002**.



Rafael Baeares  
PCT Legal Examiner  
PCT Legal Office

Telephone: (703) 308-6312  
Facsimile: (703) 308-6459